

**REMARKS/ARGUMENTS**

Applicant respectfully requests reconsideration and allowance of the subject application.

Claims 1-26 were originally submitted.

Claims 27-71 were previously presented (added).

Claims 1-26, 59-71 have been canceled without prejudice.

Claims 27-58 remain in this application.

**35 U.S.C. §102**

Claims 44-50, and 56 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,809,762 to Donnelly et al (Donnelly). Applicant respectfully traverses the rejection of the claims.

Donnelly describes a service to provide a package of selected photographs to a customer. The photographs are taken at a plurality of photographic sites. Payment for the package is arranged in advance and the customer is provided with an ID which is identified at each of the photographic sites. (See Abstract of Donnelly). The ID identifies the family (i.e., user) and the particular photographic package which will enable the family to have a predetermined number of photographs taken at various photographic sites within a defined area. (Donnelly col. 4, lines 12-16).

At automatic photo machines (i.e., photographic sites), the customer is provided the ability to approve or disapprove the photograph (i.e., image). If a particular photograph is disapproved, the photo machine will automatically sequence to take a new photograph until customer approval is indicated by a touch screen or pushbutton input. (Donnelly col. 5, lines 5-10). Furthermore, at each of

1 the photographic sites, or at the completion of the maximum number of  
2 photograph sites where all of the pre-selected number of photographs have been  
3 taken, the customer may view the taken photographs and decide whether or not  
4 they are acceptable. If a photograph is not acceptable, the photograph can be  
5 retaken at the photographic site. (Donnelly col. 6, lines 41-48).

6 **Independent claim 44** recites in part "receiving user registration data  
7 describing personal details of a said user" and "wherein an action of activating  
8 capture of an image automatically creates a contract for the supply of said image".

9 Donnelly fails to teach or disclose the method of claim 44. Donnelly  
10 describes an additional act performed by the user in the selection of photographs  
11 or images. Donnelly teaches that once a photograph or an image is taken ("taking  
12 the image" being the "action of activating capture of an image"), the user still  
13 must decide whether the photograph or photographs are acceptable and which  
14 photographs will be delivered or supplied (i.e., printed and sent to the user). In  
15 contrast, what is recited in claim 44 is "wherein an action of activating capture of  
16 an image automatically creates a contract for the supply of said image".

17 The Action argues that "Donnelly also provides a teaching in which a  
18 customer is required to pay for the photographs taken (col. 3, lines 55-56) which  
19 when the method of Donnelly is conducted without the optional possibility to  
20 provide a customer with the ability to approve or disapprove a photo (col. 5, lines  
21 5-8) results in the customer being bound to pay for each photograph taken. As the  
22 Applicant has presented Donnelly teaches the ability of a user to choose which  
23 photographs are acceptable and will be supplied or delivered.

24 The sections cited by the Action of Donnelly are as follows. "Prepaid also  
25 means, within the content of the invention, a deposit for rental or use of the digital

1 media storage device and, after the photographs are taken, return the storage  
2 device. The customer then pays only for the photographs taken or only the  
3 photographs that the customer chooses. Payment for the photographs can be  
4 deducted from the deposit or paid separate from the deposit which is returned to  
5 the customer. The customer then pays only for the photographs taken or only the  
6 photographs that the customer chooses". (Donnelly, col. 3, lines 52-56). "It is  
7 also possible to provide the automatic photo machine with the ability to  
8 automatically display each taken photograph. This will provide the customer with  
9 the ability to approve or disapprove the photo". (Donnelly, col. 5, lines 5-8).

10 Donnelly teaches that the photographs that are taken are part of the digital  
11 media storage device; however, there is no teaching that Donnelly provides that all  
12 pictures taken or stored on the digital media device are based upon "an action of  
13 activating capture of an image" that "automatically creates a contract for the  
14 supply of said image" as particularly recited by claim 44. In other words,  
15 Donnelly does not teach that once an image is taken or captured, a contract is  
16 created for the captured image.

17 Accordingly, Donnelly does not show every element of claim 44, and the  
18 rejection of claim 44 is therefore improper. Accordingly, Applicant respectfully  
19 requests that the §102 rejection of claim 44 be withdrawn.

20 **Claims 45-50** are allowable based at the least on their dependency on claim  
21 44. Accordingly, Applicant respectfully requests that the §102 rejection of claims  
22 45-50 be withdrawn.

23 **Independent claim 56** recites in part "wherein activation of said camera to  
24 capture said image automatically creates a contract for the supply of said image".  
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1 As discussed above, Donnelly describes the additional act of a user in  
2 deciding whether the photograph or photographs are acceptable and which  
3 photographs will be delivered after the photograph or image is captured.  
4 Furthermore, Donnelly fails to teach that all pictures that are taken are based on  
5 activation of a camera which automatically creates a contract to supply the image  
6 (picture). What is recited in claim 56 is "activation of said camera to capture said  
7 image automatically creates a contract for the supply of said image" which is not  
8 taught or disclosed by Donnelly.

9 Accordingly, Donnelly does not show every element of claim 56, and the  
10 rejection of claim 56 is therefore improper. Accordingly, Applicant respectfully  
11 requests that the §102 rejection of claim 56 be withdrawn.

12  
13 **35 U.S.C. §103**

14 Claims 27-37, 39, and 41-43 are rejected under 35 U.S.C. §103(a) as being  
15 unpatentable over Donnelly in view of U.S. Patent No. 6,513,015 to Ogasawara  
16 (Ogasawara), in view of U.S. Patent No. 5,587,740 to Brennan (Brennan).  
17 Applicant respectfully traverses the rejection of the claims.

18 **Independent claim 27** recites in part "an activation device for activating  
19 said camera device to capture a said photographic image data ...wherein ... an  
20 action of said activation device activating said camera to capture an image  
21 automatically creates a contract for the supply of said image".

22 Donnelly fails to teach or suggest the camera installation of claim 27. As  
23 discussed above, Donnelly describes an additional act to be performed by a user in  
24 the selection of photographs or images. Donnelly teaches that once a photograph  
25 or an image is taken ("taking the image" being the "action of activating capture of

1 an image”), the user still must decide whether the photograph or photographs are  
2 acceptable and which photographs will be delivered (i.e., printed and sent to the  
3 user). Claim 27 recites the element “wherein ... an action of said activation  
4 device activating said camera to capture an image automatically creates a contract  
5 for the supply of said image”. Donnelly fails to teach or suggest this element.  
6 Donnelly fails to teach that all pictures that are taken are based on activation of a  
7 camera which automatically creates a contract to supply the image (picture).

8 Ogasawara is cited for teaching a “smartcard like identification card that  
9 causes a photograph of the user to be automatically captured”; however,  
10 Ogasawara provides no assistance in light of Donnelly as to the camera installation  
11 of claim 27. Ogasawara does not teach or suggest the elements of claim 27 and  
12 does not help.

13 Brennan is cited for teaching “the ability to purchase and be photographed  
14 at a single location”; however, Brennan provides no assistance in light of Donnelly  
15 as to the camera installation of claim 27. Brennan does not teach or suggest the  
16 elements of claim 27 and does not help.

17 Accordingly, a combination of Donnelly, Ogasawara, and Brennan is  
18 improper. Accordingly, Applicant respectfully requests that the §103 rejection of  
19 claim 27 be withdrawn.

20 **Claims 28-37, 39, and 41** are allowable based at the least on their  
21 dependency on claim 27. Accordingly, Applicant respectfully requests that the  
22 §103 rejection of claims 28-37, 39, and 41 be withdrawn.

23 **Independent claim 42** recites in part “an action of activating said camera  
24 to capture an image automatically creates a contract for the supply of said image,  
25 by said at least one service provider computer entity”.

1 Donnelly fails to teach or suggest the photographic system of claim 27. As  
2 discussed above, Donnelly describes an additional act to be performed by a user in  
3 the selection of photographs or images. Furthermore, Donnelly fails to teach that  
4 all pictures that are taken are based on activation of a camera automatically creates  
5 a contract to supply the image (picture).

6 Ogasawara is cited for teaching a "smartcard like identification card that  
7 causes a photograph of the user to be automatically captured"; however,  
8 Ogasawara provides no assistance in light of Donnelly as to the photographic  
9 system of claim 27. Ogasawara does not teach or suggest the elements of claim 27  
10 and does not help.

11 Brennan is cited for teaching "the ability to purchase and be photographed  
12 at a single location"; however, Brennan provides no assistance in light of Donnelly  
13 as to the photographic system of claim 27. Brennan does not teach or suggest the  
14 elements of claim 27 and does not help.

15 Accordingly, a combination of Donnelly, Ogasawara, and Brennan is  
16 improper. Accordingly, Applicant respectfully requests that the §103 rejection of  
17 claim 42 be withdrawn.

18 Claim 43 is allowable based at the least on its dependency on claim 42.  
19 Accordingly, Applicant respectfully requests that the §103 rejection of claim 43 be  
20 withdrawn.

21 Claim 38 is rejected under 35 U.S.C. §103(a) as being unpatentable over  
22 Donnelly in view of Ogasawara, in view of Brennan, and further view of U.S.  
23 Patent No. 6,369,908 to Frey et al (Frey). Applicant respectfully traverses the  
24 rejection of the claim.  
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1       **Claim 38** depends from claim 27, and therefore include the element of “an  
2 activation device for activating said camera device to capture a said photographic  
3 image data ...wherein ... an action of said activation device activating said camera  
4 to capture an image automatically creates a contract for the supply of said image”.  
5 As discussed in support of claim 27, Donnelly in view of Ogasawara, in view of  
6 Brennan does not teach this element.

7       Frey is cited for teaching a “photo kiosk in which a user can add textual  
8 messages to a captured image via keyboard or touch screen monitor”; however,  
9 Frey provides no assistance in light of Donnelly, Ogasawara, and Brennan as to  
10 the camera installation of claim 38. Frey does not teach or suggest the elements of  
11 claim 27 and does not help. Accordingly, a combination of Donnelly, Ogasawara,  
12 Brennan, and Frey is improper. Accordingly, Applicant respectfully requests that  
13 the §103 rejection of claim 38 be withdrawn.

14       Claim 40 is rejected under 35 U.S.C. §103(a) as being unpatentable over  
15 Donnelly in view of Ogasawara, in view of Brennan, and further view of  
16 Examiner’s Official Notice. Applicant respectfully traverses the rejection of the  
17 claim.

18       **Claims 40** depends from claim 27, and therefore includes the element of  
19 “an activation device for activating said camera device to capture a said  
20 photographic image data ...wherein ... an action of said activation device  
21 activating said camera to capture an image automatically creates a contract for the  
22 supply of said image”. As discussed in support of claim 27, Donnelly in view of  
23 Ogasawara, in view of Brennan does not teach this element.

24       “Official Notice is taken regarding the knowledge that waterproof camera  
25 housings are often used when cameras are employed in outdoor environments”;

1 however, the Official Notice provides no assistance in light of Donnelly,  
2 Ogasawara, and Brennan as to the camera installation of claim 40, and particularly  
3 the elements of claim 27 and does not help.

4 Accordingly, a combination of Donnelly, Ogasawara, Brennan, and Official  
5 Notice is improper. Accordingly, Applicant respectfully requests that the §103  
6 rejection of claim 40 be withdrawn.

7 Claims 52, 54 and 55 are rejected under 35 U.S.C. §103(a) as being  
8 unpatentable over Donnelly in view of U.S. Patent No. 6,608,563 to Weston et al  
9 (Weston). Applicant respectfully traverses the rejection of the claims.

10 **Claims 52, 54, and 55** depend from claim 44, and therefore include the  
11 elements “wherein an action of activating capture of an image automatically  
12 creates a contract for the supply of said image”.

13 Donnelly teaches that once a photograph or an image is taken (“taking the  
14 image” being the “action of activating capture of an image”), the user still must  
15 decide whether the photograph or photographs are acceptable and which  
16 photographs will be delivered or supplied (i.e., printed and sent to the user).  
17 Donnelly fails to teach that all pictures that are taken are based on activation of a  
18 camera which automatically creates a contract to supply the image (picture).

19 Weston is cited for teaching “a system for automated photo capture and  
20 retrieval in which the photographic image captured comprises a sequence of video  
21 images”; however, Weston provides no assistance in light of Donnelly, as to the  
22 method of claims 52, 54, and 55. Weston does not teach or suggest the elements  
23 of claim 44 and does not help. Accordingly, a combination of Donnelly and  
24 Weston is improper. Accordingly, Applicant respectfully requests that the §103  
25 rejection of claims 52, 54, and 55 be withdrawn.



1 Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over  
2 Donnelly in view of Frey. Applicant respectfully traverses the rejection of the  
3 claim.

4 Claim 53 depends from claim 44, and therefore includes the element  
5 "wherein an action of activating capture of an image automatically creates a  
6 contract for the supply of said image".

7 Donnelly fails to teach or suggest the method of claim 53. As discussed  
8 above, Donnelly teaches that once a photograph or an image is taken ("taking the  
9 image" being the "action of activating capture of an image"), the user still must  
10 decide whether the photograph or photographs are acceptable and which  
11 photographs will be delivered or supplied (i.e., printed and sent to the user).  
12 Donnelly fails to teach that all pictures that are taken are based on activation of a  
13 camera which automatically creates a contract to supply the image (picture).

14 Frey is cited for teaching "a system for automated photo capture in which  
15 personalized message data from the user can be collected and superimposed on the  
16 image"; however, Frey provides no assistance in light of Donnelly, as to the  
17 method of claim 53. Weston does not teach or suggest the elements of claim 44  
18 and does not help. Accordingly, a combination of Donnelly and Weston is  
19 improper. Accordingly, Applicant respectfully requests that the §103 rejection of  
20 claim 53 be withdrawn.

21 Claims 51, 57, and 58 are rejected under 35 U.S.C. §103(a) as being  
22 unpatentable over Donnelly in view of Ogasawara. Applicant respectfully  
23 traverses the rejection of the claims.  
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1       **Claims 51, 57, and 58** depend from claim 44, and therefore include the  
2 element “wherein an action of activating capture of an image automatically creates  
3 a contract for the supply of said image”.

4       Donnelly fails to teach or suggest the method of claims 51, 57, and 58.  
5 Donnelly teaches an additional step to be performed by a user in the selection of  
6 photographs or images. Donnelly teaches that once a photograph or an image is  
7 taken (“taking the image” being the “action of activating capture of an image”),  
8 the user still must decide whether the photograph or photographs are acceptable  
9 and which photographs will be delivered or supplied (i.e., printed and sent to the  
10 user). Furthermore, as discussed above, Donnelly fails to teach that all pictures  
11 that are taken are based on activation of a camera which automatically creates a  
12 contract to supply the image (picture).

13       Ogasawara is cited for teaching “a hand held computer entity device that  
14 causes a photograph of the user to be automatically captured”; however,  
15 Ogasawara provides no assistance in light of Donnelly, as to the method of claims  
16 51, 57, and 58. Ogasawara does not teach or suggest the elements of claim 44 and  
17 does not help. Accordingly, a combination of Donnelly and Ogasawara is  
18 improper. Accordingly, Applicant respectfully requests that the §103 rejection of  
19 claims 51, 57, and 58 be withdrawn.  
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**CONCLUSION**

All pending claims 27-58 are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the subject application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned attorney before issuing a subsequent Action.

Dated: 12/13/05

Respectfully Submitted,

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